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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

7  
8 TODD A. ROBERTSON, No. C 10-2939 SI

9 Plaintiff,

10 v. **ORDER TRANSFERRING CASE TO  
11 WELLS FARGO HOME MORTGAGE,  
12 Defendant.**

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14 Defendant's motion to dismiss the complaint is scheduled for a hearing on September 17, 2010.  
15 Pursuant to Civil Local Rule 7-1(b), the Court determines that the matter is appropriate for resolution  
16 without oral argument and VACATES the hearing.

17 *Pro se* plaintiff Todd Robertson filed this action challenging a loan that he allegedly received  
18 for a property located at 5310 3rd Street, Tillamook, Oregon. Defendant Wells Fargo filed a motion to  
19 dismiss the complaint for improper venue and/or for failure to state a claim. Plaintiff's opposition to  
20 the motion was due no later than August 27, 2010. Plaintiff did not file an opposition, but has made  
21 other filings.<sup>1</sup>

22 The complaint alleges claims under federal and state law, and thus venue is governed by 28  
23 U.S.C. § 1331(b). That section provides,

24 A civil action wherein jurisdiction is not founded solely on diversity of citizenship may,  
25 except as otherwise provided by law, be brought only in (1) a judicial district where any  
26 defendant resides, if all defendants reside in the same State, (2) a judicial district in  
27 which a substantial part of the events or omissions giving rise to the claim occurred, or  
28 a substantial part of property that is the subject of the action is situated, or (3) a judicial  
district in which any defendant may be found, if there is no district in which the action

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<sup>1</sup> On August 30, 2010, plaintiff filed a certificate of service.

1 may otherwise be brought.

2 28 U.S.C. § 1391(b). Wells Fargo asserts that its main office is in South Dakota, and that it is a citizen  
3 of that state. Accordingly, venue is proper in this district only if a “substantial part of property that is  
4 the subject of the action is situated” in this district. *Id.* § 1391(b)(2). The property that is the subject  
5 of this action is located in Oregon, and thus venue is proper in the District of Oregon.

6 Pursuant to 28 U.S.C. § 1406(a), the Court has discretion to transfer this case to the District of  
7 Oregon rather than dismissing it. Although defendant persuasively argues that the complaint does not  
8 state a claim and should be dismissed, in light of plaintiff’s *pro se* status the Court will exercise its  
9 discretion and TRANSFER this case to the District of Oregon. Defendant may renew its motion to  
10 dismiss in the Oregon court.

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12 **IT IS SO ORDERED.**

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14 Dated: September 13, 2010

  
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15 SUSAN ILLSTON  
16 United States District Judge